

## **ORDINANCE NO. 2010-06-16**

STORM WATER MANAGEMENT AND DISCHARGE CONTROL ORDINANCE. AN ORDINANCE CREATING A NEW SECTION OF THE AMERICAN FORK CITY CODE REGULATING STORM WATER DRAINAGE AND DISCHARGE; ALSO PROVIDING A SAVINGS CLAUSE AND EFFECTIVE DATE FOR THE ORDINANCE.

### **PREAMBLE:**

**WHEREAS**, the General Plan of American Fork City and the American Fork City Code empowers the City Council with the authority to enact ordinances that promote the health, safety, morals, convenience, order, prosperity, and general welfare of American Fork City;

**WHEREAS**, Utah Code Annotated § 10-8-84 authorizes the City Council to pass ordinances which are reasonably and appropriately related to the objectives of that power, i.e. providing for the public safety, health, morals, welfare, peace and good order, comfort, and convenience of the City and its residents;

**WHEREAS**, Utah Code Ann § 19-5-107 prohibits the discharge of pollutants into the waters of the state of Utah; and

**WHEREAS**, the American Fork City Council finds and determines that it operates a storm water utility system which carries storm water from roadways, and private properties into the waters of the state of Utah; and

**WHEREAS**, the National Pollution Discharge Elimination System permit (NPDES/UPDES) and applicable regulations, 40 CFR §122.26, require American Fork City to manage storm water discharge;

**WHEREAS**, The Utah Code provides that, among other powers municipalities have with respect to storm water facilities, municipalities have the power by ordinance or resolution to:

- i. Exercise general regulation over the planning, location, construction, and operation and maintenance of storm water facilities in the municipality, whether or not owned and operated by the municipality;
- ii. Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
- iii. Establish standards to regulate the quantity of storm water discharged and to regulate storm water contaminants as may be necessary to protect water quality;

- iv. Review and approve plans and plats for storm water management in proposed subdivisions or commercial developments;
- v. Issue permits for storm water discharges, or for the construction, alteration, extension, or repair of storm water facilities;
- vi. Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
- vii. Regulate and prohibit discharges into storm water facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
- viii. Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of storm water contamination, whether public or private.

**WHEREAS**, the City Council has determined that the public interest, convenience, health, welfare and safety requires that all water generated from individual construction, commercial, industrial, and public use developments and subdivisions be confined and disposed of in a flood control storm drain system;

**WHEREAS**, the City Council has determined that each area which is proposed to be subdivided, developed or built upon does in fact generate additional runoff water that needs to be disposed of in a safe manner, avoiding damage and hazards to the inhabitants of American Fork City;

**WHEREAS**, the welfare of the City will be promoted by regulating storm water discharge and drainage;

NOW THEREFORE, be it ordained by the City Council of American Fork City, that the American Fork City Code be amended as follows:

# STORM WATER MANAGEMENT AND DISCHARGE CONTROL ORDINANCE

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## **American Fork City Storm Water Management and Discharge Control Ordinance**

### **Section 1. General**

(1) Purpose. It is the purpose of this ordinance is to:

- a. Protect, maintain, and enhance the environment of American Fork City ("the City").
- b. Establish responsibilities for controlling and managing storm water runoff.
- c. Protect the public health, safety and the general welfare of the citizens of the City, by controlling discharges of pollutants to the City's storm water system and to maintain and improve the quality of the receiving waters into which the storm water outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city.
- d. Enable the City to comply with State and Federal Laws and Regulations.

(2) The City's Public Works Department shall administer the provisions of this ordinance. Nothing in this ordinance shall relieve any person from responsibility for damage to other persons or property, nor impose upon American Fork City, its officers, agents or employees, any liability for damage to other persons or property.

### **Section 2. Definitions.**

For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the most recent edition of Webster's Dictionary.

1. "American Fork City Storm Water Management Program" means those certain manuals, ordinances, practices, and policies set in place by American Fork City to regulate, permit, manage, and otherwise oversee the discharge of storm water within the corporate boundaries and influence area of the City. This includes both those manuals and

practices which are in place at the time of the passage of this ordinance and those which will yet be put in place or adopted in this or future actions.

2. "As built plans" means drawings depicting conditions as they were actually constructed.
3. "Best management practices" or "BMPs" are physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by American Fork City and that have been incorporated by reference into this ordinance as if fully set out therein. For purposes of this Title, the relevant BMPs are more particularly defined in the most recent American Fork City Storm Water Management Program.
4. "Best Management Practices Manual" means the most recent documentation adopted by American Fork City which accepts specific Best Management Practices for use in American Fork City.
5. "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
6. "City Public Works Department Representative ("City SD Representative")" means a storm drain organizational chart detailing authorized City storm water representatives shall be maintained by the City Public Works Department. This organizational chart shall be appointed, maintained and updated by the City Public Works Director. At a minimum, designated and authorized representatives shall include the City Public Works Director, City Engineer, Chief Building Official, and City Storm Drain Superintendant. The City Engineer shall be the authorized designee and City representative for storm drain code interpretation, waiver application review, and establishing performance guarantee amounts. All City Representatives designated in the organizational chart shall be authorized for the purposes of storm drain code inspection, enforcement, and other related matters pertaining to the City's storm drain system.
7. "City Storm Water System" means the Storm Water Systems that receives runoff from public right-of-way, natural waterways and systems identified in a City easement, this includes facilities and components owned and/or operated by the City.
8. "Community water" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water including all aquifers, natural or artificial, lying within or forming a part of the boundaries of American Fork City.

9. "Contaminant" means any physical, chemical, biological, or radiological substance or matter in the water.
10. "Design storm event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a storm water facility.
11. "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid, liquid, or gaseous matter into the municipal separate storm sewer system.
12. "Easement" means a nonpossessory interest acquired by a person, party, firm, corporation, municipality or other legal entity that entitles the holder only to the right to the use of the owner's land in the manner specified.
13. "Erosion" means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.
14. "Erosion and sediment control plan" means a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
15. "General Construction Storm Water Permit" means the permit required by the Utah Department of Environmental Quality, Division of Water Quality.
16. "Hotspot" ("priority area") means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water.
17. "Illicit connections" means either of the following:
  - a. Any drain or conveyance whether on the surface or subsurface, which allows a contaminated or illicit discharge to enter the storm drain system. Examples include, but are not limited to, any conveyances which allow non-storm water discharge such as sewage, process wastewater, or wash water to enter the storm drain system, and any connections to the storm drain system from indoor drains or sinks regardless of whether said drain or connection had been previously allowed, permitted, or approved by government agency; or

- b. Any drain or conveyance connected to or discharging to the storm drain system, which has not been (1) documented in plans, maps, or equivalent records submitted to the City, and (2) approved in writing by the City.
- 18. "Illicit discharge" means any discharge to the municipal separate storm sewer system (MS4) that is not composed entirely of storm water, storm water that is being discharged without an approved treatment methodology, and not specifically exempted under §3(4) of this ordinance. Illicit discharges include both direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm water system) and indirect connections (e.g., infiltration into the storm water system or spills collected by drain inlets).
- 19. "Irrigation Ditches" means the gravity irrigation ditches used by irrigation shareowners having a right of water passageway by ROW, easement or prescription. Irrigation ditches also include those facilities which function as a combined storm water and irrigation conveyance intended at times as a water routing and disposal system.
- 20. "Land Disturbance Permit" means the American Fork City Land Disturbance Permit as adopted by the City.
- 21. "Land disturbing activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, developing, redeveloping, demolishing, constructing, reconstructing, clearing, grading, filling, grubbing, paving, and excavating.
- 22. "Maintenance" means any activity that is necessary to keep a storm water facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a storm water facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the storm water facility or cause a degradation of the storm water quality.
- 23. "Maintenance agreement" means a document recorded in the land records that acts as a property deed restriction on a privately held parcel, and which provides for long-term maintenance of storm water management practices.
- 24. "Municipal separate storm sewer system (MS4)" ("Municipal separate storm water system") means the conveyances owned or operated by the municipality for the collection and transportation of storm water, including the roads and streets and their



drainage systems, catch basins, detention basins, sumps, curbs, gutters, ditches, man-made channels, and storm drains.

25. "National Pollutant Discharge Elimination System permit" or "NPDES permit" means a permit issued pursuant to 33 U.S.C. 1342.
26. "Notice of Violation (N.O.V.)" means whenever the City SD Representative finds that a person is in noncompliance with this ordinance, the City SD Representative will order compliance by written notice of violation to the responsible person. Requirements in this Notice are at the discretion of the City SD Representative, and may include monitoring, payment to cover costs relating to the noncompliance, and the implementation of Best Management Practices.
27. "Off-site facility" means any facility being a structural BMP or otherwise located outside the subject property boundary described in the permit application for land development activity which is intended to form an integral part of the storm drain system for a given parcel.
28. "On-site facility" means a structural BMP located within the subject property boundary described in the permit application for land development activity.
29. "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
30. "Person" means any individual, corporation, partnership, association, company or body politic, including any agency of the State of Utah and the United States government, this includes both the singular and plural form of said groups, who acts to discharge to or otherwise influence the storm water system in the City of American Fork.
31. "Pre-Existing Conditions" means the conditions of property in its native state or changed under approval by the City or changed property that is grandfathered.
32. "Priority area" means "hot spot" as defined in § 2(14).
33. "Property Owner" means the owner of record of property within the boundary of American Fork City
34. "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm water system. Also, water produced by

storms, surface drainage, snow and ice melt, and other water handled by the storm sewer drainage system.

35. "Sediment" means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level or within any storm drainage conveyance system.
36. "Sedimentation" means soil particles that can settle or have settled in stream beds and disrupt the natural flow of the stream or otherwise disrupt the intended storm drain system function.
37. "Soils Report" means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, licensed in the State of Utah, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.
38. "Stabilization" means providing adequate measures (vegetative and/or structural) that will prevent erosion from occurring.
39. "Storm water" means storm water runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.
40. "Storm Water Design Standards and Regulations" means the current American Fork City storm water standards and regulations as adopted by the City.
41. "Storm Water Master Plan" mean the current American Fork City Storm Water Master Plan as adopted by the City.
42. "Storm water management" means the programs to maintain quality and quantity of storm water runoff to pre-development levels.
43. "Storm water management facilities system" means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which storm water is collected, transported, pumped, treated or disposed of.
44. "Storm water management plan" means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems,

structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of storm water runoff to pre-development levels.

45. "Storm water runoff" means flow on the surface of the ground or within the storm water system, resulting from precipitation or other forms of water origination being those which are both natural and artificially occurring.
46. "Storm water utility" means the storm water utility created by ordinance of the city to administer the storm water management ordinance, and other storm water rules and regulations adopted by the municipality to maintain and manage the storm water system of the City
47. "Structural BMPs" means devices that are constructed to provide control of both the quality and quantity of storm water runoff.
48. "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes, reservoirs, ponds, sloughs, or other bodies of water.
49. "SWPPP" means Storm Water Pollution Prevention Plan. A set of plans showing the location of the BMPs during the different phases of construction and system management.
50. "SWMP" means Storm Water Management Program. A Technical Report including a copy of the Land Disturbance Permit, Notice of Intent (NOI) (if applicable), Storm Water Pollution Prevention Plan: during construction and post construction, storm water pollution prevention BMPs, spill prevention and countermeasure information, inspection records and signed and dated Certification Statement from the Site Operator and the responsible person preparing the report.
51. "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
52. "Watershed" means all the land area that contributes runoff to a particular point along a waterway, or other storm water conveyance.
53. "UPDES" means Utah Pollution Discharge Elimination System.

### **Section 3. Land disturbance permits.**

(1) When required.

Every person will be required to obtain a land disturbance permit from the City SD Representative in the following cases:

- a. Land disturbing activity generally disturbs one (1) or more acres of land.
- b. Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acre of land;
- c. Land disturbing activity of less than one (1) acre of land, if in the discretion of the City SD Representative such activity poses a unique threat to water, or public health or safety;
- d. The creation and use of borrow pits or those excavation sites used to generate fill and/or decorative material for an off-site location.
- e. Development of a single family home.
- f. Processing of earthen materials such as top soil and gravel screening.
- g. Construction of parking lots.
- h. Creation of an impervious area 0.25 acres/10,890 square feet constructed with compacted gravel, asphalt or concrete pavement.
- i. Creation or alteration of storm drain works or systems.
- j. Excavation or disturbance of more than 1,000 cubic yards of material in any non-agricultural earth moving activity.

(2) Drainage channels, waterways and sensitive areas;

- a. Property owners shall not alter or restrict natural or artificial channels and waterways without proper Federal, State and City permits.
- c. Modifications of sensitive areas are subject to and governed by the American Fork City Sensitive Land Overlay Master Plan. These actions will require a Land Disturbance Permit and approval from all other governing agencies.
- d. Property owners proposing to redirect runoff, surface and/or channelized pipe flow to properties or facilities outside American Fork City boundaries must provide written approval from the federal (if applicable), state, county or municipality or their agents.
- e. Property owners are responsible for the protection of natural or artificial channels located within their property per the relevant sections of this ordinance.
- f. Discharges or modifications to the channels require written approval from the canal owners and applicable governing agencies.

- (3) Building permit. No building permit shall be issued until the applicant has obtained a Land Disturbance Permit where the same is required by this ordinance.
- (4) Exemptions. The following activities are exempt from the permit requirement:
- a. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources including activities required to promote public safety, repairs to water lines and/or other City infrastructure repairs.
  - b. Existing nursery and agricultural operations conducted as a predominant land use.
  - c. Any agricultural activity that is consistent with an approved farm conservation plan or a management plan prepared or approved by the appropriate City, Federal, and/or State Agency.
  - d. Additions or modifications to existing single family structures.
  - e. Landscape modifications resulting in disturbances below the limits identified in Section 3 (1).
  - f. Excavation activities necessary for public purposes approved through the City approval process.
- (5) Application for a Land Disturbance Permit.
- a. Each application shall include the following:
    - i. Name of applicant;
    - ii. Business or residence address of applicant;
    - iii. Name, address and telephone number of the owner of the property of record in the office of the Utah County Assessor;
    - iv. Address and legal description of subject property including the tax reference number and parcel number of the subject property;
    - v. Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;
    - vi. A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.
  - b. The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property and submit such

permits with the application for a Land Disturbance Permit. However, the inclusion of those permits in the application shall not preclude the City SD Representative from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits. Failure of the applicant to obtain the necessary permits may be a basis for denial of issuance of a land disturbance permit.

- c. Each application shall be accompanied by:
  - i. A sediment and erosion control plan.
  - ii. A storm water management plan providing for storm water management during the land disturbing activity and after the activity has been completed sufficient to handle the design storm events.
- d. Each application for a land disturbance permit shall be accompanied by payment of the land disturbance permit and other storm water management fees, as adopted by resolution and found in the City Fee Schedule.
- e. An engineer's estimate for performance guarantee purposes of all costs associated with plan implementation, management, device removal, and clean-up.

(6) Review and approval of application.

- a. The City SD Representative will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance. Within 15 days after receiving an application, the City SD Representative shall provide one of the following responses in writing:
  - i. Approval of the permit application;
  - ii. Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions; or
  - iii. Denial of the permit application, indicating the reason(s) for the denial.
- b. If the City SD Representative has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the City SD Representative. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the City SD Representative.

- c. No development plans will be released until the land disturbance permit has been approved and all outstanding plan review fees are paid in full.

(7) Permit duration.

- a. Every land disturbance permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance, or is not complete within eighteen (18) months from the date of the commencement of construction.

(8) Notice of construction.

- a. The applicant must notify the Public Works Department ten (10) working days in advance of the commencement of construction. Regular inspections of the storm water management system construction shall be conducted by the City SD Representative. All inspections shall be documented and written reports prepared that contain the following information:
  - i. The date and location of the inspection;
  - ii. Whether construction is in compliance with the approved storm water management plan;
  - iii. Variations from the approved construction specifications;
  - iv. Any violations that exist and remedies the applicant is required to perform.

(9) Performance bonds.

- a. The City SD Representative shall:

Require the submittal of a performance security or performance guarantee bond prior to issuance of a permit in order to ensure that the storm water pollution prevention practices are installed by the permit holder as required by the approved Storm Water Pollution Prevention Plan.

- 1. The amount of the installation performance security or performance guarantee bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs
- 2. The performance security shall contain forfeiture provisions for failure to complete work specified in the Storm Water Pollution Prevention Plan.

3. The applicant shall provide an itemized engineer's construction cost estimate complete with unit prices, which shall be subject to acceptance, amendment or rejection by the City SD Representative.
  4. Alternatively, the City SD Representative shall have the right to calculate the cost of construction cost estimates and revise the opinion of probable cost accordingly.
- b. The performance security or performance guarantee bond shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer licensed to practice in the State of Utah that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of this ordinance. Completion of all final inspection punch list items and removal of all temporary control measures are also required prerequisites for release of guarantee funds.
  - c. The City SD Representative will make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security or performance guarantee bond based on the completion of various development stages may be made at the discretion of the City SD Representative.

#### **Section 4. Storm water system design and management standards.**

##### **(1) Irrigation ditches**

- a. All existing irrigation ditches located on the site or straddling a site property boundary shall be piped with a sufficiently sized pipe and shall be coordinated with the water user and City Engineer.
- b. Property owners are responsible for the protection and preservation of irrigation ditches through their parcel per the relevant sections of this ordinance.
- c. Discharges to private ditches require written approval from the ditch owners and design shall comply with the terms of approvals and the Storm Water Design Standards and Regulations and the Land Disturbance Permit.
- d. Piping of ditches and modification to the diversion boxes require documented coordination with ditch owners or representative. Design and coordination requirements shall comply with the Storm Water Design Standards and Regulations and the Land Disturbance Permit documents.

##### **(2) Storm water design and BMP manuals.**



- a. Adoption. The City adopts as its storm water design and best management practices (BMP) manuals the most recent versions of the following publications, which are incorporated by reference in this ordinance as is fully set out herein:
    - i. American Fork City Storm Water Design Standards and Regulations.
    - ii. American Fork City Storm Water Master Plan.
    - iii. Other guidance documents used in the administration of the American Fork City Storm Water Management Program.
    - iv. American Fork City Storm Water Technical Manual
  - b. These manuals include a list of acceptable BMPs and include specific design performance criteria and operation and maintenance requirements for each storm water practice. The manuals may be updated and expanded from time to time, at the discretion of the governing body of the City, upon the recommendation of the City SD Representative, based on improvements in engineering, science, monitory and local maintenance experience. Storm water facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.
- (3) General performance criteria for storm water management. Unless granted a waiver or found by the City SD Representative to be exempt, the following post construction performance criteria shall be addressed for storm water management at all sites:
- a. Design of storm drain systems in the boundaries of and discharges into an American Fork City storm drain system requires direct supervision of a Utah Registered Professional Engineer, and shall carry the seal of the same supervising professional engineer.
  - b. All site designs shall control the peak flow rates of storm water discharge associated with design storms specified in this ordinance or in the BMP manual and reduce the generation of post construction storm water runoff to preconstruction levels or 100 year historical runoff flow rates. These practices should seek to utilize pervious areas for storm water treatment and to infiltrate storm water runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.
  - c. To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the BMP manual.
  - d. Storm water discharges to critical areas with sensitive resources (i.e., cold water fisheries, swimming beaches, recharge areas, water supply reservoirs) may be

subject to additional performance criteria, or may need to utilize or restrict certain storm water management practices.

- e. Storm water discharges from “hot spots” may require the application of specific structural BMPs and pollution prevention practices.
- f. Prior to or during the site design process, applicants for land disturbance permits shall consult with the City SD Representative to determine if they are subject to additional storm water design requirements.
- g. The calculations for determining peak flows as found in the BMP manual shall be used for sizing all storm water facilities.

(4) Minimum control requirements.

- a. Storm water discharge during all construction activities shall comply with the terms of the Land Disturbance Permit, the Storm Water Design Standards and Regulations, and/or requirements set forth by the most recent edition of the International Building Code, and the State of Utah UPDES requirements.
- b. Storm water designs shall meet the multi-stage storm frequency storage requirements as identified in the BMP manual unless the City SD Representative has granted the applicant a full or partial waiver for a particular BMP pursuant to Section 6 of this ordinance.
- c. Runoff rates from one parcel to another shall not exceed pre-existing conditions as defined by the American Fork City storm modeling standards or be conducted in such a manner that may unreasonably and unnecessarily cause more harm or damage than formerly existed in the predevelopment condition.
- d. If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City SD Representative may impose any and all additional requirements deemed necessary to control the volume, timing, flow velocity, and flow rate of runoff.

(5) Storm water management plan requirements. Property owners are responsible to manage storm water runoff and sediment whether in conduit systems, channels, or on the surface that traverse or originate on their property. This responsibility may extend to the defining of agreements, easements, and other appropriate measures to address storm water management. The storm water management plan shall include sufficient information to allow the City SD Representative to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing storm water generated at the project site. To accomplish this goal the storm water management plan shall include the following:

- a. **Topographic Base Map:** A 1inch = 100 feet topographic base map of the site which extends a minimum of 250 feet beyond the limits of the proposed development and indicates:
- i. Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures, slope and drainage arrows;
  - ii. Current land use including all existing structures, locations of utilities, roads, and easements;
  - iii. All other existing significant natural and artificial features;
  - iv. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading;
  - v. Proposed structural BMPs;
  - vi. A written description of the site plan and justification of proposed changes in natural conditions may also be required.
  - vii. Tabulations shall be provided for both existing and proposed land use and surface coverage materials, with specific types of permeability characteristics.
  - viii. When deemed necessary by the City Engineer, the Topographic Base Map and Survey shall conform to the minimum levels established by the American Land and Title Association (ALTA Survey).
- b. **Calculations:** Hydrologic and hydraulic design calculations during construction and post-development conditions for the design storms specified in the BMP manual. These calculations must show that the proposed storm water management measures are capable of controlling runoff from the site in compliance with this ordinance and the guidelines of the BMP manual. Such calculations shall include:
- i. A description of the design storm frequency, duration, and intensity where applicable;
  - ii. Time of concentration;
  - iii. Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
  - iv. Peak runoff rates and total runoff volumes for each watershed area;

- v. Infiltration rates, verified by percolation test or by geotechnical report, where applicable;
    - vi. Culvert, storm water sewer, ditch and/or other storm water conveyance capacities;
    - vii. Flow velocities;
    - viii. Data on the increase in rate and volume of runoff for the design storms referenced in the BMP manual; and
    - ix. Documentation of sources for all computation methods and field test results.
  - c. **Soils Information:** If a storm water management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based upon on-site boring logs or soil pit profiles survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure. In all cases where subsurface infiltration is a component of the storm water management plan a site specific percolation test shall be submitted based upon field observations and testing at the location of the infiltration facility.
  - d. **Maintenance and Repair Plan:** The design and planning of all storm water management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a storm water management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. A permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility.
  - e. **Landscaping Plan:** The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. Where it is required by the BMP, this plan must be prepared by a registered landscape architect licensed in the State of Utah.
- (6) **Maintenance Easements:** The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners of the property and must be properly recorded in the Office of the Utah County Recorder.

- (7) Maintenance Agreement: The owner of property to be served by an on-site storm water management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners. The maintenance agreement shall:
- a. Assign responsibility for the maintenance and repair of the storm water facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.
  - b. Provide for periodic inspections to be conducted by the property owner or qualified designee for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this ordinance. This inspection shall be conducted by a qualified person as defined by the Utah Division of Water Quality who will submit a sealed report of the inspection to the City SD Representative.
  - c. It shall also grant permission to the City to enter the property at reasonable times and to inspect the storm water facility to ensure that it is being properly maintained.
  - d. Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, grass cuttings and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other storm water facilities. It shall also provide that the property owner shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the BMP manual.
  - e. Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City SD Representative.
  - f. Provide that if the property is not maintained or repaired within the prescribed schedule, the City Council shall direct the City SD Representative to perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the City SD Representative's cost of performing the maintenance may be filed as a lien against the property.
- (8) Dedication: The municipality shall have the discretion to accept the dedication of any existing or future storm water management facility, provided such facility meets the requirements of this ordinance, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance.

Any storm water facility accepted by the municipality must also meet the municipality's construction standards and any other standards and specifications that apply to the particular storm water facility in question.

- (9) Sediment and Erosion Control Plans: The applicant must prepare a sediment and erosion control plan for all construction activities that complies with §4(9) below.
- a. The sediment and erosion control plan shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. The plan shall be signed and sealed by a registered professional engineer licensed in the State of Utah. The plan shall also conform to the requirements found in the BMP Manual, and shall include at least the following:
- i. Project Description - Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.
  - ii. A topographic map with contour intervals of two (2) feet or less showing present conditions and proposed contours resulting from land disturbing activity.
  - iii. All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.
  - iv. A general description of existing land cover. Individual trees and shrubs do not need to be identified.
  - v. Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.
  - vi. Approximate limits of proposed clearing, grading and filling.
  - vii. Approximate flows of existing storm water leaving any portion of the site.
  - viii. A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
  - ix. Location, size and layout of proposed storm water and sedimentation control improvements.
  - x. Proposed drainage network.

- xi. Proposed sizing for storm system piping, dewatering facilities, or other waterways.
- xii. Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting storm water offsite; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring and/or sedimentation of waterways and drainage areas off-site, etc.
- xiii. The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention facilities or any other structural BMPs.
- xiv. Specific remediation measures to prevent erosion and sedimentation run-off.

Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.
- xv. Specific details for the construction of rock pads, wash down pads, and settling basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the City SD Representative. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day by machine, broom and/or shovel to the satisfaction of the City SD Representative. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.
- xvi. Proposed structures. Location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site.
- xvii. A description of on-site measures to be taken to recharge surface water into the ground water system through infiltration.
- xviii. Future phasing plans and impervious areas if applicable.

## **Section 5. Post Construction.**

- (1) As-built plans. All applicants are required to submit actual as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all storm water management facilities and must be sealed by a Registered Professional Engineer licensed to practice in the State of Utah. A final inspection by the City SD Representative is required before any performance security or performance guarantee bond will be released. The City SD Representative shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development.  
In addition, occupation permits shall not be granted until corrections to all BMPs have been implemented and accepted by the City SD Representative.
- (2) Landscaping and stabilization requirements. Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be re-vegetated according to a schedule approved by the City SD Representative. The following criteria shall apply to re-vegetation efforts:
  - a. Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.
  - b. Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
  - c. Any area of re-vegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following re-vegetation. Re-vegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.
  - d. In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.
- (3) Inspection of storm water management facilities. Periodic inspections of facilities shall be performed as provided for in §5 of this ordinance.
- (4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a storm water management facility shall make records of the installation of the storm water facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made



available to the City SD Representative during inspection of the facility and at other reasonable times upon request.

- (5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for storm water facilities under this ordinance, the City SD Representative, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the storm water management facility becomes a danger to public safety or public health, the City SD Representative shall notify in writing the party responsible for maintenance of the storm water management facility. Upon receipt of that notice, the responsible person shall have 15 days to effect maintenance and repair of the facility in an approved manner.

In the event that corrective action is not undertaken within that time, the City Council may direct the City SD Representative to take necessary corrective action. The cost of any action by the City SD Representative under this section shall be charged to the responsible party.

## **Section 6. Waivers.**

- (1) General. Every applicant shall provide for post construction storm water management as required by this ordinance, unless a written request is filed to waive this requirement. Requests to waive the storm water management plan requirements shall be submitted to the City Engineer for review, processing and approval or forwarding to City Council where deemed appropriate by City Engineer..
- (2) Conditions for waiver. The minimum requirements for storm water management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:
  - a. It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.
  - b. Alternative minimum requirements for on-site management of storm water discharges have been established in a storm water management plan that has been approved by the City SD Representative.
  - c. Provisions are made to manage storm water by an off-site facility. The off-site facility must be in place and designed to provide the level of storm water control that is equal to or greater than that which would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility.

- (3) Downstream damage, etc. is prohibited. In order to receive a waiver, the applicant must demonstrate to the satisfaction of the City SD Representative that the waiver will not lead to any of the following conditions downstream:
- a. Deterioration of existing culverts, bridges, dams, and other structures;
  - b. Degradation of biological functions or habitat;
  - c. Accelerated stream bank or streambed erosion or siltation;
  - d. Increased threat of flood damage to public health, life or property.
- (4) Land disturbance permit not to be issued where waiver requested. No land disturbance permit shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the plans must be resubmitted with a storm water management plan.

#### **Section 7. Existing locations and developments.**

- (1) Requirements for all existing locations and developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:
- a. Denuded areas must be vegetated or covered under the standards and guidelines specified in the BMP manual and on a schedule acceptable to the City SD Representative.
  - b. Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.
  - c. Drainage ways shall be properly covered in vegetation or secured with rip-rap, channel lining, etc., to prevent erosion.
  - d. Trash, junk, rubbish, etc. shall be cleared from drainage ways.
    - e. Storm water runoff shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures shall include those methods and measures identified in the American Fork City Storm Water Mangement Program.
- (2) Requirements for existing problem locations. The City SD Representative shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problem affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.

- (3) Inspection of existing facilities. The City SD Representative may, to the extent authorized by state and federal law, establish inspection programs to verify that all storm water management facilities, including those built before as well as after the adoption of this ordinance, are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the municipality's NPDES/UPDES storm water permit; and joint inspections with other agencies inspecting under environmental or safety laws.

Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

- (4) Upon application for a business license City SD Representative shall inspect proposed occupation site for compliance with provisions of this ordinance. City SD Representative may also conduct a review or inspection of storm water compliance upon annual business license renewal application
- (5) Corrections of problems subject to appeal. Corrective measures imposed by the City SD Representative under this section are subject to appeal under §11 of this ordinance.

## **Section 8. Illicit discharges.**

- (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.
- (2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of storm water. The commencement, conduct or continuance of any non-storm water discharge to the municipal separate storm sewer system is prohibited except as described as follows:
  - a. Uncontaminated discharges from the following sources:
    - i. Water line flushing or other potable water sources,

- ii. Landscape irrigation or lawn watering with potable water or pressurized irrigation,
- iii. Diverted stream flows,
- iv. Rising ground water,
- v. Groundwater infiltration to storm drains,
- vi. Uncontaminated pumped groundwater,
- vii. Foundation or footing drains,
- viii. Crawl space pumps,
- ix. Air conditioning condensation,
- x. Springs,
- xi. Natural riparian habitat or wet-land flows,
- xii. Swimming pools (if dechlorinated - typically less than one PPM chlorine),
- xiii. Fire fighting activities, and
- xiv. Any other uncontaminated water source.
- xv. Discharges specified in writing by the City SD Representative as being necessary to protect public health and safety.
- xvi. Dye testing is an allowable discharge if the City SD Representative has so specified in writing.
- xvii. The prohibition shall not apply to any non-storm water discharge permitted under an UPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the State of Utah Division of Water Quality, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(3) Prohibition of illicit connections.

- a. The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.
- b. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of storm water pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit

authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

- (5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into storm water or the municipal separate storm sewer system, shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the City SD Representative in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the City SD Representative within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge, the emergency efforts taken, and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

## **Section 9. Enforcement**

- (1) Enforcement authority. The City SD Representative shall have the authority to issue notices of violation, corrective action notices, stop work orders, and citations. City SD Representative shall forward the item to City Council for enactment of the civil penalties provided in this section.

With the issuance of a City Storm water permit, the City SD Representative shall be permitted to enter and inspect facilities subject to this ordinance at all reasonable times and as often as necessary to determine compliance. Failure to comply with the terms of this ordinance may result in punitive actions by American Fork City ordinance enforcement.

- (2) Notification of violation.
  - a. **Written Notice.** Whenever the City SD Representative finds that any permittee or any other person discharging storm water has violated or is violating this ordinance or a permit or order issued hereunder, the City SD Representative may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be

submitted to the City SD Representative. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

- b. **Consent Orders.** The City SD Representative is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.
- c. **Show Cause Hearing.** The City SD Representative may order any person who violates this ordinance or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.
- d. **Compliance Order.** When the City Engineer finds that any person has violated or continues to violate this ordinance or a permit or order issued there under, he may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.
- e. **Cease and Desist Orders.** When the City SD Representative finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the City SD Representative may issue an order to cease and desist all such violations and direct those persons in noncompliance to:
  - i. Comply forthwith; or
  - ii. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting all operations and terminating the discharge.

- (3) **Conflicting standards.** Whenever there is a conflict between any standard contained in this ordinance and in the BMP manual adopted by the municipality under this ordinance, the strictest standard shall prevail.

- (4) Violations. Any person who shall commit any act declared unlawful under this ordinance, who violates any provision of this ordinance, who violates the provisions of any permit issued pursuant to this ordinance, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City SD Representative, shall be guilty of a Class C Misdemeanor.

## **Section 10. Penalties.**

- (1) Under the authority provided in the Utah Code, the municipality declares that any person violating the provisions of this ordinance may be assessed a Class C Misdemeanor by the City SD Representative upon direction from the City Council of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.
- (2) Measuring civil penalties. In assessing a civil penalty, the City SD Representative may consider:
- a. The harm done to the public health or the environment;
  - b. Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
  - c. The economic benefit gained by the violator;
  - d. The amount of effort put forth by the violator to remedy this violation;
  - e. Any unusual or extraordinary enforcement costs incurred by the municipality;
  - f. The amount of penalty established by ordinance or resolution for specific categories of violations; and
  - g. Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
- (3) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the municipality may recover:
- a. all damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation.
  - b. The costs of the municipality's maintenance of storm water facilities when the user of such facilities fails to maintain them as required by this ordinance.

- (4) Other remedies. The municipality may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions. In addition to the penalties established in this ordinance, the City may refuse to renew business licenses or other permits while such a violation continues.
- (5) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

#### **Section 11. Appeals.**

Appeals to municipal governing body. Pursuant to Utah Code Annotated, Title 10 Chapter 9a, any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this ordinance may appeal said penalty or damage assessment to the municipality's governing body, as provided by the ordinances of American Fork City.

#### **Section 12. SEVERABILITY:**

If any provision or clause of this chapter or its application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications which can be implemented without the invalid provision, clause, or application. To this end, the provisions of this chapter are declared to be severable.

#### **EFFECTIVE DATE:**

This ordinance shall take effect immediately upon its passage and publication as prescribed by law.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF AMERICAN FORK CITY, STATE OF UTAH, ON THIS THE \_\_\_\_ DAY OF \_\_\_\_, 2010.**

AMERICAN FORK CITY:



By: *J. Hadfield*  
Mayor James H. Hadfield

ATTEST:

By: *L. M. Call*  
CITY RECORDER

